CPEL0254020P

Patent Office of the People's Republic of China

Address : Receiving Section of the Chinese Patent Office, No. 6 Tucheng Road West, Haidian District, Beijing.Postal code: 100088

Applicant	INTEL CORPORATION			**Seal of Examiner**	**Date of Issue**
Agent	China Patent Agent (H.K.) Ltd.				August 27, 2004
Patent Application No.	01811645.0	**Application Date**	March 29, 2001	**Exam Dept.**	
Title of Invention	PROVIDING CONTENT INTERRUPTIONS				

First Office Action

(PCT application entering into the national phase)

1. ☑ Under the provision of Art. 35, para. 1 of the Patent Law, the examiner has made an examination as to substance of the captioned patent application for invention upon the request for substantive examination filed by the applicant.

   ☐ Under the provision of Art. 35, para. 2 of the Patent Law, the Chinese Patent Office has decided to conduct an examination of the captioned patent application for invention on its own initiative.

2. ☑ The applicant requests that
   the filing date April 28, 2000 at the US Patent Office be taken as the priority date of the present application,
   the filing date _____ at the _____ Patent Office be taken as the priority date of the present application,
   the filing date _____ at the _____ Patent Office be taken as the priority date of the present application.

3. ☐ The following amended documents submitted by the applicant cannot be accepted for failure to conform with Art. 33 of the Patent Law:
   ☐ the Chinese version of the annex to the international preliminary examination report.
   ☐ the Chinese version of the amended documents submitted according to the provision of Rule 19 of the Patent Cooperation Treaty.
   ☐ the amended documents submitted according to the provision of Rule 28 or Rule 41 of the Patent Cooperation Treaty.

☐ the amended documents submitted according to the provision of Rule 51 of the Implementing Regulations of the Patent Law.

See the text portion of this Office Action for detailed reasons why the amendment cannot be accepted.

4. ☑ Examination is conducted on the Chinese version of the initially-submitted international application.

☐ Examination is conducted on the following document(s):

☐ page _____ of the description, based on the Chinese version of the initially-submitted international application documents;

page _____ of the description, based on the Chinese version of the annex to the international preliminary examination report;

page _____ of the description, based on the amended documents submitted according to the provision of Rule 28 or Rule 41 of the Patent Cooperation Treaty;

page _____ of the description, based on the amended documents submitted according to the provision of Rule 51 of the Implementing Regulations of the Patent Law.

☐ claim(s) _____ , based on the Chinese version of the initially-submitted international application documents;

claim(s) _____ , based on the Chinese version of the amended documents submitted according to the provision of Rule 19 of the Patent Cooperation Treaty;

claim(s) _____ , based on the Chinese version of the annex to the international preliminary examination report;

claim(s) _____ , based on the amended documents submitted according to the provision of Rule 28 or Rule 41 of the Patent Cooperation Treaty;

claim(s) _____ , based on the amended documents submitted according to the provision of Rule 51 of the Implementing Regulations of the Patent Law.

☐ Fig(s) _____ , based on the Chinese version of the initially-submitted international application documents;

Fig(s) _____ , based on the Chinese version of the annex to the international preliminary examination report;

Fig(s) _____ , based on the amended documents submitted according to the provision of Rule 28 or Rule 41 of the Patent Cooperation Treaty;

Fig(s) _____ , based on the amended documents submitted according to the provision of Rule 51 of the Implementing Regulations of the Patent Law.

5. ☑ The following reference document(s) is/are cited in this Office Action (its/their serial

number(s) will continue to be used in the subsequent course of examination):

Serial No.	Number or Title(s) of Document(s)	Date of Publication (or filing date of interfering application)
1	CN1159120A	Date September 10, 1997
2	WO99/37045A1	Date July 22, 1999
3		Date
4		

6. Concluding comments on the examination:

☑ On the description:

☐ What is stated in the application comes within the scope of that no patent right shall be granted as prescribed in Art. 5 of the Patent Law.

☐ The description is not in conformity with the provision of Art. 26, para. 3 of the Patent Law.

☑ The drafting of the description is not in conformity with the provision of Rule 18 of the Implementing Regulations.

☑ On the claims:

☑ Claim(s) 11-19 come(s) within the scope of that no patent right shall be granted as prescribed in Art. 25 of the Patent Law.

☑ Claim(s) 1-8 has/have no novelty as prescribed in Art. 22, para. 2 of the Patent Law.

☑ Claim(s) 9, 10, 20-30 has/have no inventiveness as prescribed in Art. 22, para. 3 of the Patent Law.

☐ Claim(s) _____ has/have no practical applicability as prescribed in Art. 22, para. 4 of the Patent Law.

☐ Claim(s) _____ is/are not in conformity with the provision of Art. 26, para. 4 of the Patent Law.

☐ Claim(s) _____ is/are not in conformity with the provision of Art. 31, para. 1 of the Patent Law.

☑ Claim(s) 1, 2, 4-10, 20, 22-30 is/are not in conformity with the provisions of Rules 20 to 23 of the Implementing Regulations.

☐ Claim(s) _____ is/are not in conformity with the provision of Art. 9 of the Patent Law.

☐ Claim(s) _____ is/are not in conformity with the provision of Rule 12, para. 1 of the Implementing Regulations.

See the text portion of this Office Action for detailed analysis of the above concluding comments.

7. Based on the above concluding comments, the examiner deems that

☐ the applicant should make amendment to the application document(s) according to the requirements put forward in the text portion of this Office Action.

☐ the applicant should expound in his/its observations why the captioned patent application is patentable and make amendment to what is not in conformity with the provisions pointed out in the text portion of this Office Action, otherwise, no patent right shall be granted.

☑ the patent application contains no substantive content(s) for which a patent right may be granted, if the applicant has no sufficient reason(s) to state or his/its stated reason(s) is/are not sufficient, said application will be rejected.

☐

8. The applicant should note the following items:

(1) Under Art. 37 of the Patent Law, the applicant should submit his/its observations within **four** months from the date of receipt of this Office Action; if, without any justified reason(s), the time limit for making written response is not met, said application shall be deemed to have been withdrawn.

(2) The amendment made by the applicant to said application should be in conformity with the provision of Art. 33 of the Patent Law, the amended text should be in duplicate and its form should conform with the related provisions of the Guide to Examination.

(3) If no arrangement is made in advance, the applicant and/or the agent shall not come to the Chinese Patent Office to have an interview with the examiner.

(4) The observations and/or amended text should be sent to the Receiving Section of the Chinese Patent Office by mail or by personal delivery, if not sent to the Receiving Section by mail or by personal delivery, the document(s) will have no legal effect.

9. This Office Action consists of the text portion totalling 7 page(s) and of the following attachment(s):

☑ 2 copy(copies) of the reference document(s) totalling 61 page(s).

Examination Dept. No. _____ Examiner _____

9016

CPEL0254020P

First Office Action

This application relates to a broadband content distribution method and system. Through examination, now the following examination opinions are provided:

(I)

The defects exist in the claims:

1. Claims 11-19 come within the unpatentable scope prescribed in Art. 25, para. 1, item (2) of the Patent Law.

Though the preamble portion of claim 11 states an article, as to substance, it claims a medium, it can be seen from the contents of said claim that the physical characteristics of the medium do not have any change, and as to substance, it claims instructions stored in the medium, the medium is merely a general known medium in the prior art and doesn't include any physical characteristics making substantive contribution to this invention, which are distinguished from the prior art, what actually perform the functions in the process of dealing with the technical matter of this invention are merely the instructions recorded in the medium, therefore said claim comes within the unpatentable scope prescribed in Art. 25, para. 1, item (2) of the Patent Law. The applicant should delete said claim.

Claims 12-19 are dependent claims of claim 11, though the preamble portions of said claims states the article, as to substance, they claim the medium in claim 11, it can be seen from the characterizing portions of said claims that the physical characteristics of the medium do not have any change, and as to substance, they claim instructions stored in the medium, the medium is merely a general known medium in the prior art and doesn't include any physical characteristics making substantive contribution to this invention, which are distinguished from the prior art, what actually perform the functions in the process of dealing with the technical matter of this invention are merely the instructions recorded in the medium, therefore said claims come within the unpatentable scope prescribed in Art. 25, para. 1, item (2) of the Patent Law. The applicant should delete said claims.

2. Claims 1-8 has no novelty prescribed in Art. 22, para. 2 of the Patent Law.

The technical solution of claim 1 has no novelty prescribed in Art. 22, para. 2 of the Patent Law. Ref. 1 discloses a video data receiving apparatus and specifically discloses the technical features: the AV (audio and video) data receiving apparatus 200a comprises a receiving unit 202, a selecting unit 203, a storing unit 207, an image decoder 208, and a

control unit 209, the audio and video signals received by the receiving unit are reproduced on a monitor, the viewer selects a desired program and a method of insertion of commercial advertisements (CMs) with respect to that program, the amount of insertion, and the type of CMs by a command input unit 301, the amount of viewing of CMs can be selected according to the number of times of insertion of CMs and the length of CMs per time, it can be selected whether to insert them at predetermined positions or to insert them at any selected time, the advertisements are reproduced instead of the reproduced audio and video contents (see p. 8, line 26-p. 10, line 24 and Fig. 4 of said reference). The video content in ref. 1 is corresponding to the first content of said claim, the commercial advertisements are corresponding to the second content, by comparison of the technical solution claimed in said claim with the technical contents disclosed in said reference, what differs is merely that there is slight difference in the mode of written expression, their technical solutions are identical as to substance, besides, both belong to the same technical field and can produce the same technical effects, therefore the technical solution claimed in said claim has no novelty.

Dependent claim 2 further defines claim 1, the additional technical feature in its characterizing portion is "receiving said first and second content over a broadband distribution system", the feature has been

disclosed in ref. 1: the AV data receiving apparatus 200a receives the video content and the commercial advertisement content (see p. 8, line 26-p. 14, line 24 of said reference), therefore, when claim 1 referred to has no novelty, the technical solution of said claim has no novelty prescribed in Art. 22, para. 2 of the Patent Law either.

Dependent claim 3 further defines claim 2, the additional technical feature in its characterizing portion is "including receiving television programming", the feature has been disclosed in ref. 1: receiving the television broadcasting content (see p. 8, line 26-p. 14, line 24 of said reference), therefore, when claim 2 referred to has no novelty, the technical solution of said claim has no novelty prescribed in Art. 22, para. 2 of the Patent Law either.

Dependent claim 4 further defines claim 1, the additional technical feature in its characterizing portion is "replacing the first content with the second content includes periodically replacing the first content with the second content", the feature has been disclosed in ref. 1: it can be selected whether to insert the advertisements at predetermined positions or to insert them at any selected time, the advertisements are reproduced instead of the reproduced audio and video contents (see p. 8, line 26-p. 14, line 24 of said reference), therefore, when claim 1 referred to has no

novelty, the technical solution of said claim has no novelty prescribed in Art. 22, para. 2 of the Patent Law either.

Dependent claim 5 further defines claim 4, the additional technical feature in its characterizing portion is "replacing said first content with advertising content", the feature has been disclosed in ref. 1: the commercial advertisements are reproduced instead of the reproduced audio and video contents (see p. 8, line 26-p. 10, line 24 of said reference), therefore, when claim 4 referred to has no novelty, the technical solution of said claim has no novelty prescribed in Art. 22, para. 2 of the Patent Law either.

Dependent claim 6 further defines claim 1, the additional technical feature in its characterizing portion is "receiving digital content and demodulating said content", the technical features in its characterizing portion have been disclosed in ref. 1: the image decoder 208 successively reads the program data and CM data stored in the storing unit 207 based on the control signal from the control unit 209 and decodes that video data (see p. 8, line 26-p. 10, line 24 of said reference), therefore, when claim 1 referred to has no novelty, the technical solution of said claim has no novelty prescribed in Art. 22, para. 2 of the Patent Law either.

Dependent claim 7 further defines claim 6, the additional technical feature in its characterizing portion is "including parsing content and control information", the features have been disclosed in ref. 1: the instruction information and control information of the control unit 209 are analyzed, a control signal is generated at the control unit 209 based on the program selection signal inputted by the viewer from the command input unit 301 (see p. 8, line 26-p. 14, line 24 of said reference), therefore, when claim 6 referred to has no novelty, the technical solution of said claim has no novelty prescribed in Art. 22, para. 2 of the Patent Law either.

Dependent claim 8 further defines claim 7, the additional technical feature in its characterizing portion is "parsing content ... interrupted", the feature has been disclosed in ref. 1: the instruction information and control information of the control unit 209 are analyzed, the advertisement signals may be inserted at different time (see p. 8, line 26-p. 10, line 24 of said reference), therefore, when claim 7 referred to has no novelty, the technical solution of said claim has no novelty prescribed in Art. 22, para. 2 of the Patent Law either.

3. Claims 9-10 have no inventiveness prescribed in Art. 22, para. 3 of the Patent Law.

Dependent claim 9 further defines claim 7, the additional technical feature in its characterizing portion is "including ... said content", but the feature belongs to publicly-known general knowledge of this field (the principle of receiving instructions from a transmitting side is the same as the principle of receiving the user's instructions), the use of the publicly-known general knowledge is obvious to those skilled in the art, therefore, when claim 7 referred to has no novelty, said claim has no inventiveness prescribed in Art. 22, para. 3 of the Patent Law.

Dependent claim 10 is a dependent claim of claim 1, the additional technical features in its characterizing portion are "including ... to prevent theft of said content", but these features have been disclosed in ref. 2: a digital radio receiver comprises a deinterleaver for decryption, an encryption stream and a non-paying stream are transmitted, a decoder that can decrypt the encryption stream will skip advertisements (see p. 14, line 17-p. 21, line 15 and Fig. 2 of ref. 2), the function performed in ref. 2 is identical with that performed in this invention, i.e., it is used for encrypting the content, the teaching of further dealing with the technical matter can be obtained by applying the additional technical features of ref. 2 to the technical solution of claim 1, it shows that it is obvious to those skilled in the art to obtain the technical solution claimed in said claim on the basis of ref. 1 and in combination with ref. 2, therefore, when claim 1

referred to has no novelty, said claim has no inventiveness prescribed in Art. 22, para. 3 of the Patent Law.

4. Claims 20-30 have no inventiveness prescribed in Art. 22, para. 3 of the Patent Law.

Claim 20 has no inventiveness prescribed in Art. 22, para. 3 of the Patent Law. Ref. 1 discloses a video data receiving apparatus and specifically discloses the technical features: the AV (audio and video) data receiving apparatus 200a comprises a receiving unit 202, a selecting unit 203, a storing unit 207, an image decoder 208, and a control unit 209, the audo and video signals received by the receiving unit are reproduced on a monitor, the viewer selects a desired program and a method of insertion of commercial advertisements (CMs) with respect to that program, the amount of insertion, and the type of CMs by a command input unit 301, the amount of viewing of CMs can be selected according to the number of times of insertion of CMs and the length of CMs per time, the advertisements are reproduced instead of the reproduced audio and video contents (see p. 8, line 26-p. 10, line 24 and Fig. 4 of said reference). The difference between said claim and ref. 1 is: "said receiver including a shell; an encrypted cache", in these distinguishing features, the feature that the receiver includes a cache has been disclosed in ref. 2 (see p. 14, line 17-p. 21, line 15 and Fig. 2 of ref. 2), the function performed in ref. 2

is identical with that performed for dealing with the technical matter of this invention, i.e., it is used for receiving the data in the cache, in other words, the teaching of dealing with the technical matter can be obtained by applying the technical feature of ref. 2 to ref. 1; the feature of using the shell coupled to the cache to allow the receiver to receive the video content belongs to publicly-known general knowledge of this field, it is obvious to those skilled in the art to obtain the technical solution of said claim on the basis of ref. 1 and in combination with ref. 2, therefore the technical solution of said claim has no inventiveness for failure to possess prominent substantive features, nor represent a notable progress.

Claim 21 is a dependent claim of claim 20, the additional technical feature in its characterizing portion is "said system is a television receiver", the feature has been disclosed in ref. 1: a receiver receives television programs (see p. 8, line 26-p. 14, line 24 of said reference), the function performed in said reference is identical with that performed in this invention, i.e., it is used for receiving television programs, when claim 20 referred to has no inventiveness, said claim has no inventiveness prescribed in Art. 22, para. 3 of the Patent Law either.

Dependent claim 22 further defines claim 20, the additional technical feature in its characterizing portion is "coupled to a back channel ... the

second content", but the feature belongs to publicly-known general knowledge of this field (the principle of receiving instructions from a transmitting side is the same as the principle of receiving the user's instructions), the use of the publicly-known general knowledge is obvious to those skilled in the art, when claim 20 referred to has no inventiveness, said claim has no inventiveness prescribed in Art. 22, para. 3 of the Patent Law.

Dependent claim 23 further defines claim 20, the additional technical feature in its characterizing portion is "including a device that parses content ... said second content", but the feature has been disclosed in ref. 1: the control unit 209 analyzes the instructions from the command input unit 301 to determine the information on the number of the inserted advertisements and the time, etc. (see p. 8, line 26-p. 14, line 24 of said reference), the function performed in said reference is identical with that performed in this invention, i.e., it is used for parsing instructions, when claim 20 referred to has no inventiveness, said claim has no inventiveness prescribed in Art. 22, para. 3 of the Patent Law.

Dependent claim 24 further defines claim 23, the additional technical feature in its characterizing portion is "said device ... second content", but the feature has been disclosed in ref. 1: the control unit 209 controls

the storing unit 207 and adjusts things so that the data of CMs or program which was received is stored in the form intended by the receiver (see p. 8, line 26-p. 14, line 24 of said reference), the function performed in said reference is identical with that performed in this invention, i.e., it is used for controlling the storage of the contents, when claim 23 referred to has no inventiveness, said claim has no inventiveness prescribed in Art. 22, para. 3 of the Patent Law.

Dependent claim 25 is a dependent claim of claim 20, the additional technical feature in its characterizing portion is "said shell periodically replaces the first content with the second content", but the feature has been disclosed in ref. 1: the control unit 209 controls the selection operation of the reception signal in the selecting unit 203, a selecting unit replaces the video program with the advertisement content according to the command from the command input unit (see p. 8, line 26-p. 14, line 24 of said reference), the function performed in said reference is identical with that performed in this invention, i.e., it is used for replacing another content with one content, when claim 20 referred to has no inventiveness, said claim has no inventiveness prescribed in Art. 22, para. 3 of the Patent Law.

Dependent claim 26 is a dependent claim of claim 20, the additional

technical feature in its characterizing portion is "said receiver includes a tuner ... second content", but the feature has been disclosed in ref. 2: the digital radio receiver 200 comprises a tuner and demodulator 210 for demodulating the received contents (see p. 14, line 17-p. 21, line 15 and Fig. 2 of ref. 2), the function performed in said reference is identical with that performed in this invention, i.e., it is used for demodulating the received contents, when claim 20 referred to has no inventiveness, said claim has no inventiveness prescribed in Art. 22, para. 3 of the Patent Law.

Dependent claim 27 is a dependent claim of claim 20, the additional technical feature in its characterizing portion is "said receiver ... information", but the feature has been disclosed in ref. 1: the control unit 209 analyzes the program data and the advertisement data in the storing unit 207 (see p. 8, line 26-p. 14, line 24 of said reference), the function performed in said reference is identical with that performed in this invention, i.e., it is used for parsing the program contents on the basis of the control information, when claim 20 referred to has no inventiveness, said claim has no inventiveness prescribed in Art. 22, para. 3 of the Patent Law.

Dependent claim 28 further defines claim 27, the additional technical feature in its characterizing portion is "said receiver ... interrupted", but

the feature has been disclosed in ref. 1: the instruction information and control information of the control unit 209 are analyzed, advertisement signals may be inserted at different time (see p. 8, line 26-p. 10, line 24 of said reference), the function performed in said reference is identical with that performed in this invention, i.e., it is used for determining the time for inserting the advertisement content, when claim 27 referred to has no inventiveness, said claim has no inventiveness prescribed in Art. 22, para. 3 of the Patent Law.

Dependent claim 29 is a dependent claim of claim 20, the additional technical feature in its characterizing portion is "said shell ... to prevent theft of said first content", but the feature has been disclosed in ref. 2: the deinterleaver of the digital radio receiver 200 fulfills decryption of the received contents (see p. 14, line 17-p. 21, line 15, Fig. 2 of said reference), the function performed in said reference is identical with that performed in this invention, i.e., it is used for decrypting the received contents, when claim 20 referred to has no inventiveness, said claim has no inventiveness prescribed in Art. 22, para. 3 of the Patent Law.

Dependent claim 30 further defines claim 24, the additional technical feature in its characterizing portion is "including content guide software ... said second content", but the feature has been disclosed in ref.

1: the control unit 209 receives the instruction information and control information from the command input unit, the video program content is replaced with the advertisement content at different time (see p. 8, line 26-p. 14, line 24 of said reference), the function performed in said reference is identical with that performed in this invention, i.e., it is used for replacing the first content with the second content on the basis of the control instructions, when claim 24 referred to has no inventiveness, said claim has no inventiveness prescribed in Art. 22, para. 3 of the Patent Law.

5. Claims 1, 2, 4-10, 20, 22-30 are not in conformity with the provision of Rule 20, para. 1 of the Implementing Regulations of the Patent Law.
"first content" and "second content" in claims 1, 2, 4, 5, 20, 22-30 are not clear, which is not in conformity with the provision of Rule 20, para. 1 of the Implementing Regulations of the Patent Law on that the claims shall be clear.

It is not clear what "parsing content" in claim 7 refers to, which is not in conformity with the provision of Rule 20, para. 1 of the Implementing Regulations of the Patent Law on that the claims shall be clear.

It is not clear what "said content" in claims 6, 8-10 refers to, which is not

in conformity with the provision of Rule 20, para. 1 of the Implementing Regulations of the Patent Law on that the claims shall be clear.

(II)

The defect exists in the description:

The description is not in conformity with the provision of Rule 18, para. 2 of the Implementing Regulations of the Patent Law, the reason is that the description shall be written according to the prescribed manner and order, the subtitles "TECHNICAL FIELD, BACKGROUND ART, INVENTION CONTENTS, DESCRIPTION OF FIGURES, MODE OF CARRYING OUT THE INVENTION" shall be written before the respective parts of the description.

For the above reasons, a part of independent claims and dependent claims of this application have no novelty or inventiveness, the other claims come within the unpatentable scope, besides, no other patentable substantive contents are written in the description, even if the applicant recombines the claims and/or makes further definition on the basis of the disclosure contained in the description, this application has no patentable prospects. If the applicant cannot provide sufficient reasons within the time limit for response prescribed in this Office Action to indicate that this application has inventiveness, this application will be rejected.

中华人民共和国国家知识产权局

邮政编码：100032 北京市西城区金融街27号投资广场B座19层 中国专利代理(香港)有限公司 杨凯 王忠忠	发文日期 专利局 2004.8.27 发文
申请号：018116450	
申请人：英特尔公司	
发明创造名称：提供内容中断	

第一次审查意见通知书

02540209

（进入国家阶段的PCT申请）

王

1. ☑应申请人提出的实审请求，根据专利法第35条第1款的规定，国家知识产权局对上述发明专利申请进行实质审查。
   ☐根据专利法第35条第2款的规定，国家知识产权局专利局决定自行对上述发明专利申请进行审查。
2. ☑申请人要求以其在：
   US 专利局的申请日 2000年 04月 28日为优先权日，
   专利局的申请日 年 月 日为优先权日，
   专利局的申请日 年 月 日为优先权日。
3. ☐申请人于 年 月 日提交的修改文件，不符合专利法实施细则第51条的规定。 11 JAN 2005
   ☐申请人提交的下列修改文件不符合专利法第33条的规定。
   ☐国际初步审查报告附件的中文译文。
   ☐依据专利合作条约第19条规定所提交的修改文件的中文译文。
   ☐依据专利合作条约第28条或41条规定所提交的修改文件。
   ☐_____
4. ☑审查是针对原始提交的国际申请的中文译文进行的。
   ☐审查是针对下述申请文件进行的：
   ☐说明书 第_____页，按照原始提交的国际申请文件的中文译文；
   第_____页，按照国际初步审查报告附件的中文译文；
   第_____页，按照依据专利合作条约第28条或41条规定所提交的修改文件；
   第_____页，按照依据专利法实施细则第51条规定所提交的修改文件。
   ☐_____
   ☐权利要求 第_____项，按照原始提交的国际申请文件的中文译文；
   第_____项，按照依据专利合作条约第19条规定所提交的修改文件的中文译文。
   第_____项，按照国际初步审查报告附件的中文译文；
   第_____项，按照依据专利合作条约第28条或41条所提交的修改文件；
   第_____项，按照依据专利法实施细则第51条规定所提交的修改文件。
   ☐_____
   ☐附图 第_____页，按照原始提出的国际申请文件的中文译文；
   第_____页，按照国际初步审查报告附件的中文译文；
   第_____页，按照依据专利合作条约第28条或41条所提交的修改件；
   第_____页，按照依据专利法实施细则第51条规定所提交的修改文件。

回函请寄：100088 北京市海淀区蓟门桥西土城路6号 国家知识产权局专利局受理处收
（注：凡寄给审查员个人的信函不具有法律效力）

☑本通知书引用下述对比文献(其编号在今后的审查过程中继续沿用):

编号	文件号或名称	公开日期（或抵触申请的申请日）
1	CN1159120A	1997 年 9 月 10 日
2	WO99/37045A1	1999 年 7 月 22 日

5. 审查的结论性意见:

☑关于说明书:

- ☐申请的内容属于专利法第 5 条规定的不授予专利权的范围。
- ☐说明书不符合专利法第 26 条第 3 款的规定。
- ☐说明书不符合专利法第 33 条的规定。
- ☑说明书的撰写不符合专利法实施细则第 18 条的规定。
- ☐_____

☑关于权利要求书:

- ☑权利要求 1-8 不具备专利法第 22 条第 2 款规定的新颖性。
- ☑权利要求 9,10,20-30 不具备专利法第 22 条第 3 款规定的创造性。
- ☐权利要求_____不具备专利法第 22 条第 4 款规定的实用性。
- ☑权利要求 11-19 属于专利法第 25 条规定的不授予专利权的范围。
- ☐权利要求_____不符合专利法第 26 条第 4 款的规定。
- ☐权利要求_____不符合专利法第 31 条第 1 款的规定。
- ☐权利要求_____不符合专利法第 33 条的规定。
- ☐权利要求_____不符合专利法实施细则第 13 条第 1 款的规定。
- ☐权利要求_____不符合专利法实施细则第 2 条第 1 款关于发明的定义。
- ☑权利要求 1,2,4-10,20,22-30 不符合专利法实施细则第 20 条的规定。
- ☐权利要求_____不符合专利法实施细则第 21 条的规定。
- ☐权利要求_____不符合专利法实施细则第 22 条的规定。
- ☐权利要求_____不符合专利法实施细则第 23 条的规定。
- ☐_____

上述结论性意见的具体分析见本通知书的正文部分。

6. 基于上述结论性意见,审查员认为:

☐申请人应按照通知书正文部分提出的要求,对申请文件进行修改。

☐申请人应在意见陈述书中论述其专利申请可以被授予专利权的理由,并对通知书正文部分中指出的不符合规定之处进行修改,否则将不能授予专利权。

☑专利申请中没有可以被授予专利权的实质性内容，如果申请人没有陈述理由或者陈述理由不充分,其申请将被驳回。

☐_____

7. 申请人应注意下述事项:

(1)根据专利法第 37 条的规定,申请人应在收到本通知书之日起的肆个月内陈述意见,如果申请人无正当理由逾期不答复,其申请将被视为撤回。

(2)申请人对其申请的修改应符合专利法第 33 条的规定,修改文本应一式两份,其格式应符合审查指南的有关规定。

(3)申请人的意见陈述书和/或修改文本应邮寄或递交国家知识产权局专利局受理处,凡未邮寄或递交给受理处的文件不具备法律效力。

(4)未经预约,申请人和/或代理人不得前来国家知识产权局专利局与审查员举行会晤。

8.本通知书正文部分共有 7 页,并附有下述附件:

☑引用的对比文件的复印件共 2 份 61 页。

☐_____

审查员:王艳妮(9554)

2004 年 8 月 13 日

审查部门 审查协作中心

回函请寄:100088 北京市海淀区蓟门桥西土城路 6 号 国家知识产权局专利局受理处收
(注:凡寄给审查员个人的信函不具有法律效力)

第一次审查意见通知书正文

申请号：01811645.0

本申请涉及一种宽带内容分发方法及系统。经审查，现提出如下的审查意见：

（一）

权利要求书存在以下缺陷：

1、 权利要求11-19属于专利法第二十五条第一款第（二）项规定的不授予专利权的范围：

权利要求11的前序部分中虽然写明请求保护一种产品，但是其实质上保护一种媒体，从整个权利要求的内容可以看出，媒体本身的物理特性没有发生任何变化，其实质上是保护记载在媒体上的指令，因为所述媒体仅为现有技术中已有的一般的媒体，并不具有任何区别于现有技术的可对本发明作出实质性贡献的物理特性，在解决本发明技术问题过程中真正起作用的只是媒体中所记录的指令，因此该权利要求属于专利法第二十五条第一款第（二）项规定的不授予专利权的范围。申请人应该将该权利要求删除。

权利要求12-19为权利要求11的从属权利要求，这些权利要求的引用部分中虽然写明请求保护一种产品，但是其实质保护权利要求11中所述的媒体，从这些权利要求的特征部分可以看出，媒体本身的物理特性没有发生任何变化，其实质上是保护记载在媒体上的指令，因为所述媒体仅为现有技术中已有的一般的媒体，并不具有任何区别于现有技术的可对本发明作出实质性贡献的物理特性，在解决本发明技术问题过程中真正起作用的只是媒体中所记录的指令，因此这些权利要求属于专利法第二十五条第一款第（二）项规定的不授予专利权的范围。申请人应该这些权利要求12-19删除。

2、 权利要求1-8不具备专利法第二十二条第二款规定的新颖性：

权利要求1所要求保护的技术方案不具备专利法第二十二条第二款规定的新颖性。对比文件1公开了一种视频数据接收设备，并具体公开了以下技术特征“AV（音视频）数据接收装置200a包括：接收单元202，选择单元203，存储单元207，图象解码器208和控制单元209，接收单元接收视音频信号在监视器上进行播放，观众可以通过指令输入单元301选择所需要的节目和关于该节目的商业广告（CMs）的插入方法，插入的量，以及广告的种类，可以按照广告插入的次数和

每次的长度来观看广告的量，可以选择在事先确定的预定位置插入广告，也可以在选定的时间来插入，用广告来替换播放的视音频内容进行播放”（参见该对比文件的第8页第26行至第10页第24行以及图4）。对比文件1中的视频内容对应于权利要求中的第一内容，商业广告对应于第二内容，该权利要求所要求保护的技术方案与该对比文件所公开的内容相比，所不同的仅仅是文字表达方式上略有差别，其技术方案实质上是相同的，且两者属于相同的技术领域，并能产生相同的技术效果，因此该权利要求所要求保护的技术方案不具备新颖性。

从属权利要求2对权利要求1作了进一步的限定，其限定部分的附加技术特征为“通过宽带分发系统接收所述第一和第二内容”，该特征同样已被对比文件1公开为“AV数据接收装置200a接收视频内容和商业广告内容”（参见该对比文件的第8页第26行至第14页第24行），因此当其引用的权利要求1不具备新颖性时，该从属权利要求所要求保护的技术方案也不具备专利法第二十二条第二款所规定的新颖性。

从属权利要求3对权利要求2作了进一步的限定，其限定部分的附加技术特征为“包括电视节目”，该特征同样已被对比文件1公开为“接收电视广播内容”（参见该对比文件的第8页第26行至第14页第24行），因此当其引用的权利要求2不具备新颖性时，该从属权利要求所要求保护的技术方案也不具备专利法第二十二条第二款所规定的新颖性。

从属权利要求4对权利要求1作了进一步的限定，其限定部分的附加技术特征为“用所述第二内容暂时替换第一内容包括定期用第二内容替换所述第一内容”，该特征同样已被对比文件1公开为“可以选择在事先确定的预定位置插入广告，也可以在选定的时间来插入，用广告来替换播放的视音频内容进行播放”（参见该对比文件的第8页第26行至第14页第24行），因此当其引用的权利要求1不具备新颖性时，该从属权利要求所要求保护的技术方案也不具备专利法第二十二条第二款所规定的新颖性。

从属权利要求5对权利要求4作了进一步的限定，其限定部分的附加技术特征为“用广告内容替换所述第一内容”，该特征同样已被对比文件1公开为“用商业广告来替换播放的视音频内容进行播放”（参见该对比文件的第8页第26行至第10页第24行），因此当其引用的权利要求4不具备新颖性时，该从属权利要求所要求保护的技术方案也不具备专利法第二十二条第二款所规定的新颖性。

从属权利要求6对权利要求1作了进一步的限定，其限定部分的附加技术特征为“接收数字内容并对所述内容进行解调”，该特征同样已被对比文件1公开为“图象解码器208根据来自控制单元209的控制信号依次读出存储单元207中的节目数据和广告数据，并对视频数据进行解码”（参见该对比文件的第8页第26行至第10页第24行），因此当其引用的权利要求1不具备新颖性时，该从属权利要求所要求保护的技术方案也不具备专利法第二十二条第二款所规定的新颖性。

从属权利要求7对权利要求6作了进一步的限定，其限定部分的附加技术特征为“包括分析内容和控制信息”，该特征同样已被对比文件1公开为“分析控制单元209的指令信息和控制信息，控制信号是根据观众从指令输入单元301输入的节目选择信号在控制单元209中产生的”（参见该对比文件的第8页第26行至第10页第24行），因此当其引用的权利要求6不具备新颖性时，该从属权利要求所要求保护的技术方案也不具备专利法第二十二条第二款所规定的新颖性。

从属权利要求8对权利要求7作了进一步的限定，其限定部分的附加技术特征为“从控制信息中分析内容包括从所述内容中分析指令，以便确定可中断所述内容的时间”，该特征同样已被对比文件1公开为“分析控制单元209的指令信息和控制信息，可以在不同的时间插入广告信号”（参见该对比文件的第8页第26行至第10页第24行），因此当其引用的权利要求7不具备新颖性时，该从属权利要求所要求保护的技术方案也不具备专利法第二十二条第二款所规定的新颖性。

3、 权利要求9-10不具备专利法第二十二条第三款规定的创造性：

权利要求9对权利要求7作了进一步的限定，其限定部分的附加技术特征为“包括从反向信道接收指令，以便控制所述内容的中断”，但这些特征是所述技术领域中的公知常识（通过发送方接收指令与接收用户的指令原理相同），这些公知常识的使用对本领域的技术人员来说是显而易见的，在其引用的权利要求7不具备新颖性的情况下，该从属权利要求也不具备专利法第二十二条第三款规定的创造性。

从属权利要求10是权利要求1的从属权利要求，其限定部分附加技术特征为“包括接收加密内容，并且控制所述内容的解密，以便控制盗用所述内容”，但这些特征已在对比文件2中相应地公开为“数字无线电接收机包括一个去交织

器用于解密，一个加密流1100跟免费流1160并行发送，能够对加密流解密的一个译码器将会跳过广告”（参见对比文件2的第14页第17行至第21页第15行和图2），且其在对比文件2中所起的作用与其在本发明中所起的作用相同，都是用于加密内容，即该对比文件给出了将上述附加技术特征应用到所引用的权利要求1的技术方案以进一步解决其技术问题的启示，由此可知在对比文件1的基础上结合对比文件2得出该权利要求进一步限定的技术方案，对本领域的技术人员来说是显而易见的，因而在其引用的权利要求不具备新颖性的情况下，该从属权利要求不具备专利法第二十二条第三款规定的创造性。

4、 权利要求20-30不具备专利法第二十二条第三款规定的创造性：

权利要求20不具备专利法第二十二条第三款规定的创造性。对比文件1公开了一种视频数据接收设备，并具体公开了以下技术特征“AV（音视频）数据接收装置200a包括：接收单元202，选择单元203，存储单元207，图象解码器208和控制单元209，接收单元接收视音频信号在监视器上进行播放，观众可以通过指令输入单元301选择所需要的节目和关于该节目的商业广告（CMs）的插入方法，插入的量，以及广告的种类，可以按照广告插入的次数和每次的长度来观看广告的量，用广告来替换播放的视音频内容进行播放”（参见对比文件1的第8页第26行至第10页第24行以及图4）；该权利要求与对比文件1的区别在于：“接收器包括外壳，加密高速缓存”，这些区别特征中，特征“接收器包括高速缓存”已被对比文件2公开（参见对比文件2的第14页第17行至第21页第15行和图2），且其在对比文件2中所起的作用与其在本发明中为解决其技术问题所起的作用相同，都是用于高速缓存接收的数据，也就是说对比文件2给出了将上述技术特征用于该对比文件1以解决其技术问题的启示；而特征采用外壳连接到高速缓存允许接收器接收视频内容是本领域的公知常识。由此可知，在对比文件1的基础上结合对比文件2以及本领域的公知常识，得出该权利要求的技术方案，对本技术领域的技术人员来说是显而易见的，因此该权利要求所要求保护的技术方案不具有突出的实质性特点和显著的进步，因而不具备创造性。

权利要求21是权利要求20的从属权利要求，其限定部分附加技术特征为“所述系统是电视接收器”，该特征也已在对比文件1中公开为接收机接收电视节目（参见该对比文件的第8页第26行至第14页第24行），且其在该对比文件中所起的作用与其在本发明中所起的作用相同，都是用于接收电视节目，在其引用的

权利要求20不具备创造性的情况下，该从属权利要求也不具备专利法第二十二条第三款规定的创造性。

权利要求22是权利要求20的从属权利要求，其限定部分的附加技术特征为“连接到反向信道，用于接收关于采用所述第二内容替换所述第一内容的时间的指令”，但这些特征是所述技术领域中的公知常识（通过发送方接收指令与接收用户的指令原理相同），这些公知常识的使用对本领域的技术人员来说是显而易见的，在其引用的权利要求20不具备创造性的情况下，该从属权利要求也不具备专利法第二十二条第三款规定的创造性。

权利要求23是权利要求20的从属权利要求，其限定部分附加技术特征为“包括一种装置，该装置从指令中分析内容，以便用所述第二内容替换所述第一内容”，该特征也已在对比文件1中公开为“控制单元209分析从指令输入单元301输入的指令，以便确定插入广告的数量与时间等信息”（参见该对比文件的第8页第26行至第14页第24行），且其在该对比文件中所起的作用与其在本发明中所起的作用相同，都是用于分析指令，在其引用的权利要求20不具备创造性的情况下，该从属权利要求也不具备专利法第二十二条第三款规定的创造性。

权利要求24对权利要求23作了进一步的限定，其限定部分附加技术特征为“所述设备还分析关于如何存储所述第一和第二内容的指令”，该特征也已在对比文件1中公开为“控制单元209控制存储单元207并调整各细节，使所接收的广告数据和节目数据能以被接收机指定的方式存储”（参见该对比文件的第8页第26行至第14页第24行），且其在该对比文件中所起的作用与其在本发明中所起的作用相同，都是用于控制内容的存储，在其引用的权利要求23不具备创造性的情况下，该从属权利要求也不具备专利法第二十二条第三款规定的创造性。

权利要求25是权利要求20的从属权利要求，其限定部分附加技术特征为“所述外壳定期采用所述第二内容替换所述第一内容”，该特征也已在对比文件1中公开为“控制单元209控制选择单元203中接收信号的选择操作，选择单元根据来自指令输入单元的指令用广告内容替换视频节目”（参见该对比文件的第8页第26行至第14页第24行），且其在该对比文件中所起的作用与其在本发明中所起的作用相同，都是用于用一种内容替换另一种内容，在其引用的权利要求20不具备创造性的情况下，该从属权利要求也不具备专利法第二十二条第三款规定的创造性。

权利要求26是权利要求20的从属权利要求，其限定部分附加技术特征为“所述接收器包括调谐器，它调谐到数字信道并对所述第一和第二内容进行解调”，该特征也已在对比文件2中公开为“数字无线接收机200包括调谐和解调单元210，实现对接收的内容进行解调”（参见对比文件2的的第14页第17行至第21页第15行和图2），且其在该对比文件中所起的作用与其在本发明中所起的作用相同，都是用于解调接收的内容，在其引用的权利要求20不具备创造性的情况下，该从属权利要求也不具备专利法第二十二条第三款规定的创造性。

权利要求27是权利要求20的从属权利要求，其限定部分附加技术特征为“接收器从控制信息中分析所述第一和第二内容”，该特征也已在对比文件1中公开为“控制单元209分析存储单元中的节目数据和广告数据”（参见该对比文件的第8页第26行至第14页第24行），且其在该对比文件中所起的作用与其在本发明中所起的作用相同，都是用于根据控制信号分析节目内容，在其引用的权利要求20不具备创造性的情况下，该从属权利要求也不具备专利法第二十二条第三款规定的创造性。

权利要求28对权利要求27作了进一步的限定，其限定部分附加技术特征为“接收器从所述第一和第二内容分析指令，以便确定可中断所述第一内容的时间”，该特征也已在对比文件1中公开为“分析控制单元209的指令信息和控制信息，可以在不同的时间插入广告信号”（参见该对比文件的第8页第26行至第10页第24行），且其在该对比文件中所起的作用与其在本发明中所起的作用相同，都是用于确定广告内容插入的时间，在其引用的权利要求27不具备创造性的情况下，该从属权利要求也不具备专利法第二十二条第三款规定的创造性。

权利要求29是权利要求20的从属权利要求，其限定部分附加技术特征为“所述外壳控制所述第一内容的解密，以便防止盗用所述第一内容”，该特征也已在对比文件2中公开为“数字无线接收机200去交织器，实现对接收的内容进行解密”（参见对比文件2的的第14页第17行至第21页第15行和图2），且其在该对比文件中所起的作用与其在本发明中所起的作用相同，都是用于解密接收的内容，在其引用的权利要求20不具备创造性的情况下，该从属权利要求也不具备专利法第二十二条第三款规定的创造性。

权利要求30对权利要求24作了进一步的限定，其限定部分附加技术特征为“包括内容指南软件，它接收用于中断所述第一内容的中断指令，并采用所述

第二内容替换所述第一内容”，该特征也已在对比文件1中公开为“控制单元209接收来自指令输入单元的指令信息和控制信息，可以在不同的时间用广告内容替换视频节目内容”（参见该对比文件的第8页第26行至第10页第24行），且其在该对比文件中所起的作用与其在本发明中所起的作用相同，都是用于根据控制指令来用第二内容替换第一内容，在其引用的权利要求24不具备创造性的情况下，该从属权利要求也不具备专利法第二十二条第三款规定的创造性。

5、权利要求1、2、4-10、20、22-30不具备专利法实施细则第二十条第一款的规定：

权利要求1、2、4、5、20、22-30中出现的“第一内容”、“第二内容”不清楚，不符合专利法实施细则第二十条第一款有关权利要求清楚的规定。

权利要求7中出现的“分析内容”所指代的内容不清楚，不符合专利法实施细则第二十条第一款有关权利要求清楚的规定。

权利要求6、8-10中出现的“所述内容”所指代的内容不清楚，不符合专利法实施细则第二十条第一款有关权利要求清楚的规定。

（二）

说明书存在以下缺陷：

说明书撰写不符合专利法实施细则第十八条第二款的规定。理由是：说明书应当按照规定的方式和顺序撰写，并在说明书的每一部分前面写明标题：“技术领域、背景技术、发明内容、附图说明、具体实施方式”。

基于上述理由，本申请的部分独立权利要求以及从属权利要求不具备新颖性或创造性，其余权利要求属于不授权范围，同时说明书中也没有记载其他任何可以授予专利权的实质性内容，因而即使申请人对权利要求进行重新组合和/或根据说明书记载的内容作进一步的限定，本申请也不具备被授予专利权的前景。如果申请人不能在本通知书规定的答复期限内提出表明本申请具有创造性的充分理由，本申请将被驳回。

审查员：王艳妮

代码：9554